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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,130	08/21/2001	Guy Beauvent	401299	4950

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EXAMINER

POE, MICHAEL I

ART UNIT PAPER NUMBER

1732

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/933,130	<b>Applicant(s)</b> BEAUVENT ET AL.	
	<b>Examiner</b> Michael I Poe	<b>Art Unit</b> 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8/21/2001 & 2/23/2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) 20-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20020415</u> . | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Amendments***

1. Applicant's amendment filed on August 21, 2001 has been entered. Based upon the entry of this amendment, existing claims 1-18 and 20-26 have been amended, existing claim 19 has been canceled, and no new claims have been added. Claims 1-18 and 20-26 are currently pending.

### ***Election/Restrictions***

2. Applicant's election of Group I, claims 1-18 in the paper filed on February 23, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
3. Claims 20-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the paper filed on February 23, 2004.

### ***Priority***

4. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

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Claim 15 includes the recitation "the refractory stainless steel coating is an Inconel® alloy". This recitation is indefinite because the compositions covered by the recited trademark can change over the time. As such, it could be unclear to one reading the claim what type of refractory stainless steel coating is being claimed. The applicant should replace the trademark with the appropriate generic terminology.

***Allowable Subject Matter***

7. Claims 1-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

8. The following is a statement of reasons for the indication of allowable subject matter:

- (1) The prior art of record does not teach or suggest the claimed method of manufacturing cement, as a whole, especially including treating a mixture including  $\text{CaCO}_3$ , at least one of  $\text{Al}_2\text{O}_3$  and  $\text{Al}(\text{OH})_3$ ,  $\text{CaSO}_4$  and at least one of  $\text{SiO}_2$  and a product containing silica or silicates before a clinkering stage by movement in the center of a kiln, in a sheet with approximately constant thickness, at approximately constant speed, along a treatment path having a positive temperature gradient.
- (2) Although it is known in the art to form blanks from cementitious mixtures and treat those blanks in kilns before a clinkering stage (see, for example, German Patent Publication No. 3417247 A1 to Henrich et al.) and it is known in the art to sinter blanks of cementitious mixtures in kilns having a positive temperature gradient to form a final product (see, for example, U.S. Patent No. 4,193,761 to Mantegani or U.S. Patent No. 4,828,489 to Albonetti), there is no suggestion or motivation in the prior art to treat blanks in kilns having a positive temperature gradient wherein the treated blank is subjected to a subsequent clinkering stage as claimed because a blank treated according to the processes for sinter blanks (e.g., the processes of Mantegani and Albonetti) would not be suitable for clinkering.

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**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 3,716,387 (Simmons et al.), U.S. Patent No. 4,036,657 (Mehta), U.S. Patent No. 4,123,288 (Stringer et al.), U.S. Patent No. 4,193,761 (Mantegani), U.S. Patent No. 4,337,035 (Barchi), U.S. Patent No. 4,384,848 (Marazzi), U.S. Patent No. 4,496,396 (Steinbiss et al.), U.S. Patent No. 4,530,651 (Bucchi), U.S. Patent No. 4,828,489 (Albonetti), U.S. Patent No. 4,943,323 (Gartner et al.), U.S. Patent No. 4,966,547 (Okuyama et al.) and U.S. Patent No. 5,288,227 (Righetti) have been cited of interest to show the state of the art at the time the invention was made.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael I Poe whose telephone number is (571) 272-1207. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michael Poe/mip

  
MICHAEL COLAIANNI  
PRIMARY EXAMINER